

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

----oo0oo----

CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE,

Plaintiff,

v.

JEFFREY MACOMBER¹, in his
official capacity as Secretary
of the California Department of
Corrections and Rehabilitation,

Defendant.

No. 2:20-cv-02482 WBS AC

FINAL PRETRIAL ORDER

COUNTY OF AMADOR, a public
agency of the State of
California,

Plaintiff,

v.

JEFFREY MACOMBER¹, in his
official capacity as Secretary
of the California Department of
Corrections and Rehabilitation;

¹ Defendants substituted as a party Jeffrey Macomber, who has been appointed Secretary of the California Department of Corrections and Rehabilitation, replacing Kathleen Allison. (Docket No. 108.)

1 and PATRICK COVELLO, in his
2 official capacity as Warden of
3 California Department of
4 Corrections and Rehabilitation
5 Mule Creek State Prison,

6 Defendants.

7 -----oo0oo-----

8 A Final Pretrial Conference was held in this matter,
9 pursuant to the provisions of Rule 16(d) of the Federal Rules of
10 Civil Procedure and Local Rule 282, on February 13, 2023. Erica
11 Maharg appeared as counsel for plaintiff California Sportfishing
12 Protection Alliance ("CSPA"), Christopher Pisano appeared as
13 counsel for plaintiff County of Amador ("Amador"), and Jennifer
14 Hartman-King and Alana Lungren appeared as counsel for
15 defendants. Following the conference, the court enters this
16 Final Pretrial Order:

17 I. Jurisdiction - Venue

18 Federal question jurisdiction exists under 28 U.S.C. §
19 1331, because plaintiffs' claims arise under laws of the United
20 States, Section 505(a)(1)(A) of the Clean Water Act, 33 U.S.C. §
21 1365(a)(1)(A). Venue is undisputed and is hereby found to be
22 proper.

23 II. Jury - Non-Jury

24 Plaintiff Amador demanded a jury trial, but has elected
25 to waive its demanded jury trial. Plaintiff CSPA has not
26 requested a jury trial. Defendants have not requested a jury
27 trial. Accordingly, this case will be tried before the court,
28 sitting without a jury.

1 III. Proposed Findings of Fact and Conclusions of Law and Form of
2 Judgment

3 No later than twenty-one days before the trial date,
4 plaintiffs shall lodge and serve the Findings of Fact and
5 Conclusions of Law and form of judgment which plaintiffs propose
6 to be entered at the conclusion of the trial pursuant to Fed. R.
7 Civ. P. 52. No later than fourteen days before trial, defendants
8 shall lodge and serve the Findings of Fact and Conclusions of Law
9 and form of judgment which defendants proposes be entered.

10 IV. Trial Briefs

11 No later than fourteen days before the trial date,
12 counsel for each party shall file trial briefs pursuant to Local
13 Rule 285. Because this action is to be tried to the court
14 sitting without a jury, motions in limine are not appropriate.
15 However, counsel may alert the court to any legal issues they
16 anticipate will need to be addressed in their respective trial
17 briefs. No later than seven days before trial, the parties may
18 file responses to the other side's trial briefs.

19 V. Remaining Claims

20 Plaintiffs CSPA and Amador each assert two remaining
21 claims in this consolidated action. All remaining claims will be
22 addressed at trial.

23 Plaintiffs' first claims allege unpermitted discharges
24 to Mule Creek that did not result from operation of the land
25 application areas, in violation of the Clean Water Act, 33 U.S.C.
26 § 1311(a).²

27 ² At summary judgment, Amador abandoned its first claim
28 only as to the land application areas, and its third claim

1 Plaintiffs' second claims allege multiple violations of
2 the Small MS4 Permit and the Clean Water Act, 33 U.S.C. §§ 1311,
3 1342. CSPA and Amador allege violations of Provisions B.2 and D
4 of the Small MS4 Permit.³ CSPA additionally alleges violation of
5 Provision B.3 of the Small MS4 Permit. Amador additionally
6 alleges violation of Provision C.1 of the Small MS4 Permit.

7 VI. Witnesses

8 (A) Plaintiffs anticipate calling the witnesses
9 identified at Exhibit "A" attached hereto.

10 (B) Defendants anticipate calling the witnesses
11 identified at Exhibit "B" attached hereto.

12 (C) Except for retained experts, each party may call
13 any witness designated by any other party.

14 (D) No other witnesses will be permitted to testify at
15 trial unless:

16 (1) all parties stipulate that the witness may
17 testify;

18 (2) the party offering the witness demonstrates
19 that the witness is for the purpose of rebutting evidence which
20 could not have been reasonably anticipated at the time of the
21 Pretrial Conference; or

22 _____
23 alleging violations of the Industrial General Permit. The court
24 granted summary judgment for defendants accordingly. (Docket No.
103.) CSPA abandoned its first claim only as to the land
application areas in its Pre-Trial Statement. (Pls.' PTS at 32.)

25 ³ Plaintiffs' second claims also alleged violation of
26 Provision B.1. The court granted summary judgment for defendants
27 on this theory. (Docket No. 103.) The court also granted
28 summary judgment establishing that Mule Creek is a water of the
United States, and that both plaintiffs have Article III
standing. (Docket No. 60.)

1 (3) the witness was discovered after the Pretrial
2 Conference.

3 (E) Testimony of a witness not designated in this
4 Order, which is offered under paragraph VI(D)(3), above, upon the
5 grounds that the witness was discovered after the Pretrial
6 Conference, will not be permitted unless:

7 (1) the testimony of the witness could not
8 reasonably have been discovered prior to the Pretrial Conference;

9 (2) the court and opposing counsel were promptly
10 notified upon discovery of the testimony; and

11 (3) counsel proffered the witness for deposition
12 if time permitted or provided all opposing counsel a reasonable
13 summary of the testimony if time did not permit a deposition.

14 VII. Exhibits

15 (A) Plaintiffs intend to offer the exhibits identified
16 at Exhibit "C" attached hereto.

17 (B) Defendants intend to offer the exhibits identified
18 at Exhibit "D" attached hereto.

19 (C) Each party may offer any exhibit designated by any
20 other party.

21 (D) No other exhibits will be received in evidence
22 unless:

23 (1) all parties stipulate that the exhibit may be
24 received in evidence;

25 (2) the party offering the exhibit demonstrates
26 that the exhibit is for the purpose of rebutting evidence which
27 could not have been reasonably anticipated at the time of the
28 Pretrial Conference; or

1 (3) the exhibit was discovered after the Pretrial
2 Conference.

3 (E) An exhibit not designated in this Order, which is
4 offered under paragraph VII(D)(3), above, upon the grounds that
5 the exhibit was discovered after the Pretrial Conference, will
6 not be received in evidence unless:

7 (1) the exhibit could not reasonably have been
8 discovered prior to the Pretrial Conference;

9 (2) the court and opposing counsel were promptly
10 notified upon discovery of the exhibit; and

11 (3) counsel provided copies of the exhibit to all
12 opposing counsel if physically possible or made the exhibit
13 reasonably available for inspection by all opposing counsel if
14 copying was not physically possible.

15 (F) Each party shall exchange copies of all exhibits
16 identified in this Order, or make them reasonably available for
17 inspection by all other parties, no later than seven days before
18 the trial date. Any and all objections to such exhibits shall be
19 filed and served not later than four days before the trial date.

20 (G) The attorney for each party is directed to appear
21 before trial and present an original (and if physically possible
22 one copy) of each exhibit to Deputy Clerk Karen Kirksey Smith at
23 8:30 a.m. on the date of trial.

24 (H) Each exhibit which has been designated in this
25 Order and presented on the morning of the date of trial shall be
26 pre-marked by counsel. Plaintiffs' exhibits shall bear numbers;
27 defendants' exhibits shall bear letters. If no objection has
28 been made to such exhibit pursuant to paragraph VII(F), above,

1 such exhibit will require no further foundation and will be
2 received in evidence upon the motion of any party at trial.

3 VIII. Further Discovery and Motions

4 No further motions shall be brought before trial except
5 upon order of the court and upon a showing of manifest injustice.
6 Fed. R. Civ. P. 16(e). No further discovery will be permitted
7 except by the express stipulation of all parties or upon order of
8 the court and upon a showing of manifest injustice. Id.

9 IX. Use of Depositions or Interrogatories

10 No later than twenty-one days before the trial date,
11 counsel for each party shall file and serve a statement
12 designating all answers to interrogatories and all portions of
13 depositions intended to be offered or read into evidence, with
14 the exception of portions to be used only for impeachment or
15 rebuttal. No later than ten days before the trial date, counsel
16 for any other party may file and serve a counter-designation of
17 other portions of the same depositions intended to be offered or
18 read into evidence and may file evidentiary objections to any
19 other parties' designation. No later than seven days before the
20 trial date, the parties may file evidentiary objections to any
21 other party's counter-designation.

22 X. Date and Length of Trial

23 The trial is set for April 18, 2023, in Courtroom 5.
24 The court estimates that the trial will last approximately ten
25 days.

26 XII. Settlement

27 The parties are willing to participate in a pretrial
28 settlement conference. Accordingly, a settlement conference is

1 set before Magistrate Judge Dennis M. Cota on April 13, 2023 at
2 9:00 a.m. Each party is ordered to have a principal with full
3 settlement authority present at the settlement conference or to
4 be fully authorized to settle the matter on any terms.

5 No later than 12:00 p.m. on April 6, 2023, counsel for
6 each party shall submit a Confidential Settlement Conference
7 Statement via email to DMCorders@caed.uscourts.gov. The parties
8 may agree, or not, to serve each other with the Confidential
9 Settlement Conference Statements. The Confidential Settlement
10 Conference Statements shall not be filed with the clerk and shall
11 not otherwise be disclosed to the trial judge. However, each
12 party shall e-file a one-page document entitled "Notice of
13 Submission of Confidential Settlement Conference Statement."

14 XIII. Evidence Presentation Equipment

15 If any party feels that electronic presentation is
16 necessary, they should be prepared to operate the courtroom's
17 equipment or bring their own audio visual equipment to the
18 courtroom and be prepared to operate it themselves.

19 XIV. Objections to Pretrial Order

20 Any objections or suggested modifications to this
21 Pretrial Order shall be filed and served within seven days from
22 the file-stamped date of this Order. All references herein to
23 the date of this Order shall refer to the date the tentative
24 order is filed and not to the date any amended order is filed.
25 If no objections or modifications are made, this Order will
26 become final without further order of the Court and shall control
27 the subsequent course of the action, pursuant to Rule 16(e) of
28 the Federal Rules of Civil Procedure.

1 Dated: February 14, 2023



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

Exhibit A: Plaintiffs' Witnesses

1. Karen Ashby, expert
2. Robert Emerick, expert
3. Kenneth William Croyle
4. Elizabeth Lee
5. Gregor Larabee, person most knowledgeable (FRCP 30(b)(6))
6. Howard Hold
7. Kari Holmes
8. Paul Orta, person most knowledgeable (FRCP 30(b)(6))
9. David Anderson

Exhibit B: Defendants' Witnesses

1. Timothy Simpson, designated expert
2. Elizabeth Lee, Regional Water Board
3. Kari Holmes, Regional Water Board
4. Gregor Larabee, CDCR
5. Anthony Orta, CDCR
6. Edmund Taylor, member of CSPA
7. Robert Hess, SHN
8. Steve Weisberg, SCCWRP

Exhibit C: Plaintiffs' Exhibits

Date	Document	Bates Reference
5/19/1988	State Water Resources Control Board, Resolution No. 88-63, Adoption of Policy Entitled "Sources of Drinking Water"	n/a
1/1/2012	U.S. EPA Recreational Water Quality Criteria, Office Of Water 820-F-12-058	available at: https://www.epa.gov/sites/default/files/2015-10/documents/rwqc2012.pdf
2/5/2013	Phase II Small MS4 Permit	MCSP0000001 - MCSP0000289
2/5/2013	Phase II Small MS4 Permit Fact Sheet	available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/phase_ii_municipal/factsheet.pdf
6/1/2013	Draft Environmental Impact Report, Level II Infill Correctional Facilities Project, Volume 3	CALSPORT0000001 - CALSPORT0000352
12/11/2015	Central Valley Water Board's Waste Discharge Requirements Order R5-2015-0129	COA0105812 - COA0105856
1/18/2018	Email from H. Hold, RB, to CDCR, re: Immediately Cease Discharge of Wastewater from Stormwater Pipeline - CDCR Mule Creek State Prison with attachments	CALSPORT0027441 - CALSPORT0027506
2/14/2018	Water Code Section 13267 Order	CALSPORT0007465 - CALSPORT0007474
3/1/2018	Stormwater Discharge Sampling Plan	MCSP0057680 - MCSP0057698
3/7/2018	Stormwater Master Plan Mule Creek State Prison	MCSP0002054 - MCSP0002088
3/13/2018	2018 Informational Memo, "Storm Water System"	MCSP0000576

1	4/4/2018	Conditional Approval of Stormwater Discharge Sampling Plan	CALSPORT0003619- CALSPORT0003620
2	4/4/2018	Materially Deficient Report: Interim Disposal Plan	CALSPORT0003616- CALSPORT0003618
3	5/1/2018	Revised Interim Disposal Plan	MCSP0057657- MCSP0057679
4	6/11/2018	Notice of Violation and Inspections Reports	CALSPORT0008306 - CALSPORT0008329
5	8/7/2018	State Water Resources Control Board Resolution No. 2018-0038	Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0038.pdf
6	2/1/2019	Water Quality Control Plan ("Basin Plan") for the California Regional Water Quality Control Board, Central Valley Region Fifth Edition (for) The Sacramento River Basin and the San Joaquin River Basin	available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201902.pdf
7	2/4/2019	State Water Resources Control Board, Part 3 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California - Bacteria Provisions and Water Quality Standards Variance Policy	Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/final_iswebe_bacteria_provisions.pdf
8	3/21/2019	Conditional Approval of Flow Monitoring Installation Plan	CALSPORT0024809- CALSPORT0024811
9	4/8/2019	Discharge Notification Email: OES report 4/8/2019	MCSP0023962
10	4/8/2019	Cal OES Hazardous Waste Spill Report	COA0000055- COA0000056
11	4/24/2019	State Water Resources Control Board, Order WQ 2019-0009-EXEC	MCSP00000594 - MCSP0000600
12	5/16/2019	Cal OES Hazardous Waste Spill Report	COA0000059- COA0000060
13	5/20/2019	Cal OES Hazardous Waste Spill Report	COA0000059- COA0000060

1	5/23/2019	Discharge Notification Email: OES report 5/23/2019	MCSP0046537
2			
3	5/31/2019	April 2019 Monthly Status Report	MCSP0023662-23963
4			
5	6/10/2019	Regional Board General Section 401 Water Quality Certification Order for Mule Creek State Prison	n/a
6	6/19/2019	2019 informational memo, "Latex Glove Disposal and Storm Water Pollution"	MCSP0000601
7			
8	6/28/2019	May 2019 Monthly Status Report	MCSP0046198 - MCSP0046537
9	9/16/2019	Cal OES Hazardous Waste Spill Report	COA0000061-COA0000062
10	9/17/2019	Discharge Notification Email: OES report 9/16/2019	MCSP0025760
11			
12	10/1/2019	Appendix 23 SHN Engineers & Geologists, Revised Stormwater Collection System Investigation Report of Findings, August 2018, revised October 2019.	MCSP0020759 - MCSP0020795
13			
14	10/1/2019	Appendix 15 of SHN Engineers & Geologists, Revised Stormwater Collection System Investigation Report of Findings, August 2018, revised October 2019.	MCSP0005264 - MCSP0005319
15			
16	10/1/2019	Appendix 14 of SHN Engineers & Geologists, Revised Stormwater Collection System Investigation Report of Findings, August 2018, revised October 2019.	MCSP0005253 - MCSP0005263
17			
18	10/1/2019	Appendix 10 of SHN Engineers & Geologists, Revised Stormwater Collection System Investigation Report of Findings, August 2018, revised October 2019.	MCSP0004558 - MCSP0004560
19			
20	10/1/2019	Map of Facility MS4 from the Revised Stormwater Collection System Investigation Report of Findings, August 2018, revised October 2019	MCSP0004089
21			
22	10/1/2019	SHN Engineers & Geologists, Revised Stormwater Collection System Investigation Report of Findings	CALSPORT0024300 - CALSPORT0024537
23			
24			
25			
26			
27			
28			

1			MCSP0025554 -
2	10/31/2019	September 2019 Monthly Status Report	MCSP0025761
3	12/10/2019	Discharge Notification Email: OES report 12/10/2019	MCSP0026750
4	12/11/2019	Cal OES Hazardous Waste Spill Report	COA0000065- COA0000066
5	12/23/2019	Discharge Notification Email: OES report 12/23/2019	MCSP0026751
6	12/23/2019	Cal OES Hazardous Waste Spill Report	COA0000067- COA0000068
7			
8	1/9/2020	Cal OES Hazardous Waste Spill Report	COA0000005- COA0000006
9	1/12/2020	Discharge Notification Email: OES report 12/23/2019	MCSP0053097
10	1/16/2020	Cal OES Hazardous Waste Spill Report	COA0000007- COA0000008
11			
12	1/17/2020	Discharge Notification Email: OES report 1/17/2020	MCSP0053098
13	1/17/2020	Cal OES Hazardous Waste Spill Report	COA0000007- COA0000008
14	1/27/2020	Discharge Notification Email: OES report 1/27/2020	MCSP0053099
15			
16	1/27/2020	December 2019 Monthly Status Report	MCSP0026413 - MCSP0026751
17	1/27/2020	Cal OES Hazardous Waste Spill Report	COA0000009- COA0000010
18	2/28/2020	January 2020 Monthly Status Report	MCSP0052810 - MCSP0053099
19	3/16/2020	Cal OES Hazardous Waste Spill Report	COA0000013- COA0000014
20			
21	3/17/2020	Cal OES Hazardous Waste Spill Report	COA0000013- COA0000014
22	3/18/2020	Discharge Notification Email: OES report 3/20/2020	MCSP0053098
23	3/18/2020	March 16, 2020 Discharge Notification	MCSP0001837
24	3/22/2020	March 19, 2020 Discharge Notification	MCSP0036508
25	4/6/2020	Cal OES Hazardous Waste Spill Report	COA0000015- COA0000016
26	4/7/2020	Cal OES Hazardous Waste Spill Report	COA0000015- COA0000016
27	4/9/2020	Discharge Notification Email: OES report 4/9/2020	MCSP0028460
28			

1			MCSP0027766 -
2	4/30/2020	March 2020 Monthly Status Report	MCSP0028088
3	5/18/2020	Cal OES Hazardous Waste Spill Report	COA0000017 - COA0000018
4	5/29/2020	April 2020 Monthly Status Report	MCSP0028188 - MCSP0028460
5	6/12/2020	May 2020 Weekly report	MCSP0003855 - MCSP0003956
6	6/26/2020	May 2020 Monthly Status Report	MCSP0028671 - MCSP0028931
7	8/6/2020	Water Code 13383 Order to Monitor Discharges to Surface Water; California Department of Corrections and Rehabilitation - Mule Creek State Prison, WDID#:5S03M2000307, Amador County	MCSP0000646 - MCSP0000655
8	9/23/2020	Notice of Violation for Sanitary Sewer Overflows, California Department of Corrections-Mule Creek State Prison, Amador County.	COA0105777 - COA0105796
9	10/1/2020	Sewer System Management Plan	MCSP0029658- MCSP0029708
10	10/30/2020	September 2020 Monthly Status Report	MCSP0029954 - MCSP0030096
11	12/7/2020	Review of <i>Revised Storm Water System Investigation Findings Report</i> , California Department of Corrections and Rehabilitations, Mule Creek State Prison, Amador County	MCSP0031305 - MCSP0031325
12	12/8/2020	Email re: EPA Inspection Documentation Request - MCSP and attachment	MCSP0031191- MCSP0031197
13	12/14/2020	Discharge Notification Email: OES report 12/14/2020	MCSP0032959
14	12/17/2020	Ltr from K. Holmes, RB, to CDCR re: Transmittal of Technical Memo: Revise of Revised Storm Water System Investigation Findings Report	MCSP0031326 - MCSP0031328
15	12/18/2020	2020 December weekly report	MCSP0031331 - MCSP0031433
16	12/21/2020	Discharge Notification Email: OES report 12/21/2020	MCSP0032960
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

1		Water Code 13383 Order to Monitor	
2		Discharges to Surface Water;	
3		California Department of Corrections	
4	12/22/2020	and Rehabilitation - Mule Creek State Prison, WDID#:5S03M2000307, Amador County	MCSP0001157 - MCSP0001168
5	12/28/2020	Discharge Notification Email: OES report 12/28/2020	MCSP0032961
6		October/November 2020 Monthly Status Report	MCSP0031884 - MCSP0032088
7	12/29/2020		
8		Southern California Coastal Water Resarch Project, Quantification of Sources of Fecal Pollution at Mule Creek	MCSP0033700 - MCSP0033735
9	1/1/2021		
10			
11	1/6/2021	January 6, 2021 Discharge Notification	MCSP0001283- MCSP0001284
12			
13	1/21/2021	Regional Board Review of SCCWRP Report	MCSP0032459 - MCSP0032460
14	1/26/2021	January 23, 2021 discharge notice	MCSP0001305
15	1/27/2021	December 2020 Monthly Status Report	MCSP0032767- 32961
16		Inspection Report for an inspection of Mule Creek State Prison conducted by the U.S. Environmental Protection Agency on November 19, 2020	MCSP0032965 - MCSP0033013
17	1/28/2021		
18		Ltr from U.S. EPA to Gregor Larabee, Re: Inspection Report: Mule Creek State Prison	MCSP0021570 - MCSP0021572
19	1/28/2021		
20		Weekly Status Report (week ending 1/15/2021)	MCSP0033020 - MCSP0033123
21	1/29/2021		
22		February 1, 2021 Mule Creek State Prison(MCSP) Non-Stormwater Discharge Report; California Department of Corrections and Rehabilitation-Mule Creek State Prison, WDID#:5S03M2000307, Amador County	MCSP0001704 - MCSP0001705
23	2/1/2021		
24		Fourth Quarter 2020 Monitoring Report, Mule Creek State Prison, Amador County, California; Order 13383	MCSP0001491 - MCSP0001703
25	2/1/2021		
26	2/3/2021	February 3, 2021 discharge notice	MCSP0033875
27	2/3/2021	January 23, 2021 discharge notice	MCSP0001711
28			

1	2/16/2021	Cal OES Hazardous Waste Spill Report	COA0067927 - COA0067928
2			
3	2/18/2021	Response to Comments for the California Department of Corrections and Rehabilitation Mule Creek State Prison Facility Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order	MCSP0032471 - MCSP0032477
4			
5	2/18/2021	Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, Order No. R5-2021- 0001	MCSP0001788 - MCSP0001832
6			
7	3/9/2021	Cal OES Hazardous Waste Spill Report	COA0067929- COA0067930
8			
9	3/11/2021	Cal OES Hazardous Waste Spill Report	COA0067931- COA0067934
10			
11	3/11/2021	Email: OES report 3/11/2021	MCSP0037915
12	3/16/2021	Email: OES report 3/16/2021	MCSP0037916
13	3/16/2021	Email: discharge notification	MCSP0001837
14			
15	3/22/2021	March 19, 2021 Discharge Notification	MCSP0037917 MCSP0036508
16	3/22/2021	March 18-19, 2021 discharge notification	COA0067935 - COA0067936
17	3/22/2021	Cal OES Hazardous Waste Spill Report	COA0067935- COA0067936
18			
19	4/20/2021	March 2021 Monthly Status Report, Mule Creek State Prison, Amador County, California	MCSP0037690 MCSP0037917
20			
21	4/30/2021	First Quarter 2021 Monitoring Report; Mule Creek State Prison, Amador County, California; Order 133838	MCSP0001901 - MCSP002038
22			
23	6/29/2021	June 29, 2021 Regional Board letter Comments to the Non-Storm Water Discharge Report; California Department of Corrections and Rehabilitation - Mule Creek State Prison, WDID#: 5S03M2000307, Amador County	MCSP0039805 - MCSP0039808
24			
25	7/29/2021	Second Quarter 2021 Monitoring Report, Mule Creek State Prison, Amador County, California; Order 13383	MCSP0040130 - MCSP0040139
26	8/10/2021	Aug. 10, 2021 Regional Board letter	MCSP0040143
27			
28			

1		Sept. 1, 2021 Regional Board letter, Comments to the Non-Storm Water Discharge Report; California Department of Corrections and Rehabilitation - Mule Creek State Prison, WDID#: 5S03M2000307, Amador County	MCSP0040239 - MCSP0040244
2	9/1/2021		
3		MCSP Program Effectiveness Assessment and Improvement Plan (PEAIP) Annual Report	MCSP0040655 - MCSP0040662
4	9/16/2021		
5		October 25, 2021 discharge notice	MCSP0021673 MCSP0040763
6	10/25/2021		
7		Third Quarter 2021 Monitoring Report, Mule Creek State Prison, Amador County, California; Order 13383	MCSP0021674 - MCSP0021682
8	10/29/2021		
9		November 9, 2021 discharge notice	MCSP0040860 - MCSP0040861
10	11/10/2021		
11		Water Code 13383 Order to Monitor Discharges to Surface Water; California Department of Corrections and Rehabilitation - Mule Creek State Prison, WDID#:5S03M2000307, Amador County	CALSPORT0045481 - CALSPORT0045494
12	11/29/2021		
13		Non-Traditional MS4 Compliance Plan	MCSP0041048 - MCSP0041198
14	12/1/2021		
15		December 9, 2021 Discharge Notification	COA0068013
16	12/10/2021		
17		2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report, Appendix A, approved May 11, 2022 by EPA	available at: https://www.w aterboards.ca.go v/water_issues/p rograms/tmdl/202 0_2022state_ir_r eports_revised_f inal/apx-a-303d- list.xlsx
18	1/19/2022		
19		CDCR, Phase II MS4 Compliance Review	CALSPORT0034357 - CALSPORT0034370
20	1/24/2022		
21		Fourth Quarter 2021 Monitoring Report	COA0031323 - COA0031407
22	2/1/2022		
23		Regional Board Comments to Phase II MS4 Annual Reports and 13383 Order Quarterly Monitoring Reports	COA0104957 - COA0104960
24	2/11/2022		

1	3/9/2022	Pictures from 3/9/22 Site Inspection	
2			COA0068032 -
3	3/15/2022	March 16, 2022 discharging notice	COA0068034
4	3/17/2022	California Laboratory Services, Lab Results	COA0067431 - COA0067434
5	3/28/2022	2022, Mar. 28 Discharge Notification	COA0068036
6	3/31/2022	Caltest Lab Results (pharmaceuticals and personal care products)	COA0104804 - COA0104819
7	4/11/2022	April 11, 2022 Discharge Notification	COA0067397
8	4/11/2022	Regional Board Comments to the Non-Stormwater Discharge Elimination Plan	CALSPORT0045264 - CALSPORT0045269
9	4/29/2022	First Quarter 2022 Monitoring Report	COA0068016 COA0068075
10	5/13/2022	May 13 Non-Stormwater Discharge Elimination Plan	MCSP0058680 - MCSP0058687
11	5/24/2022	Pictures from 5/24/2022 Site Inspection	TBD
12	6/1/2022	California Laboratory Services, Lab Results	COA0104827- COA0104830
13	6/17/2022	Caltest Lab Results (pharmaceuticals and personal care products)	CALSPORT0044957- CALSPORT0044961 ; CALSPORT0049852 CALSPORT0049869
14	8/1/2022	Expert Opinion Report of Robert W. Emerick, Ph.D., P.E.	NA
15	8/1/2022	Ashby Expert Disclosure	NA
16	8/1/2022	Second Quarter 2022 Monitoring Report	COA0032265 - COA0032312
17	9/6/2022	Ashby Supplemental Disclosure	NA
18	9/20/2022	September 20, 2022 Discharge Notification	COA0159696
19	10/15/2022	Third Quarter 2022 Monitoring Report	COA0159888
20	10/15/2022	Phase II Small MS4 Annual Report	COA0159669 - COA0159679

10/21/2022	2021-2022 Annual Report, MCSP, Order 13383	COA0159701 - COA0159887
11/2/2022	2022, Nov. 2 Discharge Notification	COA0159691
11/3/2022	Letter from Regional Board, Clarification to the Comment Letter Dated 11 February 2022	COA0159659 - COA0159668
11/30/2022	Regional Board Comments to the 2022 Q1 and Q2 Monitoring Reports	COA0159655
12/1/2022	2022, Dec. 1 Discharge Notification	COA0159693
Unknown	2022 Q4 Monitoring Report	NA
Unknown	Analytical Methods Report	COA0067021
Misc	SHN Technical Memoranda Mule Creek State Prison - Weekly Status Reports	See pages labeled Exhibit A
Misc	SHN Monthly Status Reports, Mule Creek State Prison, Amador County, California	See pages labeled Exhibit B

Plaintiffs are also trying to obtain certain information provided by defendants to the regional water board and will include such information when it is received.

Plaintiffs may introduce the following discovery documents for purposes of impeachment, rehabilitation, or similar purposes or if a witness is unavailable:

a. Deposition transcript and exhibits of witnesses from Central Valley Regional Water Quality Control Board, Kenneth William Croyle, Elizabeth Lee, Brett Stevens, Howard Hold, Kari Holmes.

b. Deposition transcripts and exhibits of Plaintiffs' experts, Karen Ashby and Robert Emerick.

c. Deposition transcripts and exhibits of Defendants' expert Timothy Simpson.

d. Deposition transcript and exhibits of Defendants' persons most knowledgeable, Anthony Paul Orta and Gregor Larabee.

Exhibit D: Defendants' Exhibits

Date	Document	Bates Reference
2013-02-04	National Pollutant Discharge Elimination System ("NPDES") General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Separate Storm Sewer System ("MS4s"), State Board Order 2013- 0001-DWQ, NPDES No. CAS00004 ("Small MS4 Permit").	MCSP0000001 - MCSP0000289
2019-02	California Regional Water Quality Control Board, Central Valley Region Water Quality Control Plan (Fifth Edition) for the Sacramento River and San Joaquin River Basins ("Basin Plan").	Available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201902.pdf
2022-01-19	2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report), Appendix A, approved May 11, 2022 by EPA.	Available at: https://www.waterboards.ca.gov/water_issues/programs/tmdl/2020_2022state_integrated_report_revised_final/apx-a-303d-list.xlsx
2021-01	Quantification of Sources of Fecal Pollution at Mule Creek, prepared by Southern California Coastal Water Research Project for Central Valley Regional Water Quality Control Board and the California Department of Correction and Rehabilitation, ("2021 Sources Fecal Pollution Report").	MCSP0033700 - MCSP0033735
2020-06-19	Revised Stormwater Collection System Investigation Report of Findings, prepared by SHN Engineers & Geologists for California Department of Corrections and Rehabilitation, ("2020 Collection System Investigation Report").	MCSP0004084- MCSP0020806
2020-08-06	Regional Board Water Code 13383 Order to Monitor Discharges to Surface Water.	MCSP0000646 - MCSP0000655
2020-12-22	Regional Board Water Code 13383 Order to Monitor Discharges to Surface Water.	MCSP0001157 - MCSP0001168
2021-11-29	Regional Board Water Code 13383 Order to Monitor Discharges to Surface Water.	CALSPORT0045481 - CALSPORT0045494

2022-08-01	Expert Report and Exhibits of Timothy Simpson.	n/a
2022-09-06	Expert Rebuttal Report and Exhibits of Timothy Simpson.	n/a
n/a	Defendants' Summary of Stormwater Data, including background contributions thereof.	n/a

Defendants may offer portions of the following deposition transcripts for the purposes of impeachment, rehabilitation, or similar purposes or if a witness is unavailable:

- a. Deposition transcripts and exhibits of witnesses from the Regional Water Board, Kenneth William Croyle, Elizabeth Lee, Brett Stevens, Howard Hold, Kari Holmes.
- b. Deposition transcripts and exhibits of Plaintiffs' experts, Karen Ashby and Dr. Robert Emerick.
- c. Deposition transcript and exhibits of Defendants' expert, Timothy Simpson.
- d. Deposition transcripts and exhibits of Defendants' persons most knowledgeable, Anthony Paul Orta and Gregor Larabee.
- e. Deposition transcript and exhibits of Edmund Taylor.